

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

COMPLETE TITLE OF CASE:

MELISSA HOWARD

Respondent

v.

CITY OF KANSAS CITY, MISSOURI

Appellant

DOCKET NUMBER **WD69803**

DATE: February 9, 2010

Appeal From:

Circuit Court of Platte County, MO
The Honorable Gerald D. McBeth, Senior Judge

Appellate Judges:

Special Division: Clifford H. Ahrens, J., Patricia L. Cohen, J. and Jeffrey W. Bates, J., Special Judges

Attorneys:

Saskia C.M. Jaobse, Kansas City, MO

Counsel for Appellant,

Attorneys:

Mark A. Jess, Kansas City, MO

Counsel for Respondent.

**MISSOURI APPELLATE COURT OPINION SUMMARY
MISSOURI COURT OF APPEALS, WESTERN DISTRICT**

MELISSA HOWARD, Respondent, v.
CITY OF KANSAS CITY, Appellant

WD69803

Platte County

Before Special Division Judges: Ahrens, J., Cohen, J., and Bates, J.

Melissa Howard (Howard) brought suit under the Missouri Human Rights Act (MHRA), §§ 213.010-.137, against the City of Kansas City (the City). Howard's petition alleged that, during the municipal judge appointment process, the City engaged in an unlawful employment practice by refusing to hire Howard because of her race. Howard's case was tried to a jury, which found in her favor and awarded her compensatory and punitive damages. The City appealed, raising several points.

REVERSED AND REMANDED.

Special Division holds:

In the City's first point, it contends the trial court erred in not directing a verdict for the City because the MHRA does not apply to the City's municipal judge appointment process. The City argues that municipal judges are not employees covered by the act. The MHRA only applies to employee-employer relationships. Common law principles must be applied to make that determination. A review of the relevant factors supports a determination that municipal judges are independent contractors because the City lacks the right to control the means and manner of their services. Therefore, the trial court erred in failing to direct a verdict in the City's favor on Howard's MHRA claim. The City's other points on appeal are moot.

Opinion by: Jeffrey W. Bates, Special J.

February 9, 2010

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